

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**METROPOLITAN TOWER LIFE
INSURANCE COMPANY,**

Plaintiff,

VS.

**KATHERINE MCARTHUR, as
Independent Executor of the Estate of
CLAIRE LUVOICE MCARTHUR, III,
Deceased, and MARILYN MCARTHUR,**

Defendants.

§ § § § § § § § § § §

CIVIL ACTION NO. 3:22-CV-2861-B

JOINT MOTION TO DISMISS ALL CLAIMS WITH PREJUDICE

Plaintiff Metropolitan Tower Life Insurance Company and Defendants Katherine McArthur, as Independent Executor of the Estate of Claire Luvoice McArthur, III, Deceased, and Marilyn McArthur file this Joint Motion to Dismiss All Claims With Prejudice and state:

1. This is an interpleader action filed pursuant to Fed. R. Civ. P. 22 arising out of conflicting claims made by possible beneficiaries to life insurance proceeds payable under an individual life insurance policy issued to Claire L. McArthur, III, MD (the “Policy”).
2. The parties agree that this Court has original diversity jurisdiction over this action pursuant to 28 U.S.C. §1332(a)(1) because this action is between citizens of different states and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. MetLife Tower is incorporated under the laws of the State of Nebraska, with its principal place of business in New York and Defendants are citizens of states other than Nebraska and New York. The life insurance proceeds in issue total \$200,000.00 (the “Policy Proceeds”).

3. Defendants have reached a settlement in this interpleader action as to the distribution of the Policy Proceeds. Additionally, the parties have agreed that MetLife will recover \$5,300 from the Policy Proceeds for its fees and expenses. Lastly, the parties agree and jointly request that all claims asserted or that could have been asserted to the Policy Proceeds, be dismissed with prejudice, with each party bearing their own costs.

WHEREFORE, Plaintiff Metropolitan Tower Life Insurance Company and Defendants Katherine McArthur, as Independent Executor of the Estate of Claire Luvoice McArthur, III, Deceased, and Marilyn McArthur request that the Court order: (i) that MetLife recover \$5,300 from the Policy Proceeds for its fees and expenses; (ii) that all claims asserted or that could have been asserted to the Policy Proceeds and this lawsuit be dismissed with prejudice, with each party bearing their own costs; (iii) that MetLife distribute all Policy Proceeds, other than the \$5,300 recovered by MetLife, to Marilyn McArthur and Katherine McArthur in the percentages specified in the written Settlement Agreement between Marilyn McArthur and Katherine McArthur; and (iv) that the parties have all other and further relief to which they are entitled.

Respectfully submitted,

/s/ Linda G. Moore

Linda G. Moore
State Bar No. 14359500
ESTES THORNE EWING & PAYNE PLLC
3811 Turtle Creek Blvd., Suite 2000
Dallas, Texas 75219
Telephone: (214) 599-4000
Telecopier: (214) 599-4099
lmoore@estesthorne.com

ATTORNEY FOR PLAINTIFF METROPOLITAN
TOWER LIFE INSURANCE COMPANY

/s/ Timothy J. Van Meir

Price L. Johnson
State Bar No. 24002363
Price@JohnsonBusinessLaw.com

Timothy Van Meir
State Bar No. 00794781
Tim@JohnsonBusinessLaw.com

Matthew A. Bourque
State Bar No. 24078245
Matt@JohnsonBusinessLaw.com

Emily K. Smith
State Bar No. 24093171
Emily@JohnsonBusinessLaw.com

Matthew P. Lindner
State Bar No. 24098001
Matthew@JohnsonBusinessLaw.com

The Johnson Firm
3001 Knox St., Suite 400
Dallas, Texas 75205-7309
Telephone: (214) 468-9000
Telecopier: (214) 468-9025

ATTORNEYS FOR DEFENDANT KATHERINE
K. MCARTHUR, AS THE INDEPENDENT
EXECUTOR OF THE ESTATE OF CLAIRE
LUVoice MCARTHUR, III, DECEASED

A large, bold, handwritten signature in black ink, which appears to read "Marilyn McArthur". The signature is written over a horizontal line.

Marilyn N. McArthur, Pro Se
212 N. Cochise Ave.
Willcox, AZ 85643-1913
Telephone: (502) 732-3203
mammcarthur@gmail.com

DEFENDANT MARILYN N. MCARTHUR

CERTIFICATE OF SERVICE

I certify that on September 6, 2023, a true and correct copy of Joint Motion to Dismiss All Claims with Prejudice was electronically filed through the Court's CM/ECF system and served on all counsel of record as follows:

Price L. Johnson
Timothy Van Meir
Matthew A. Bourque
Emily K. Smith
Matthew P. Lindner
The Johnson Firm
3001 Knox St., Suite 400
Dallas, Texas 75205-7309

Marilyn McArthur, Pro Se
3114 S. Las Cruces Street
Deming, NM 88030
mammcarthur@gmail.com

/s/ Linda G. Moore

Linda G. Moore